

**AN ORDINANCE OF THE CITY OF FRISCO, TEXAS, AMENDING CHAPTER 34 (ENVIRONMENT), ARTICLE IV (JUNKED AND ABANDONED MOTOR VEHICLES), OF FRISCO'S CODE OF ORDINANCES; PROVIDING FOR A PENALTY FOR A VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

WHEREAS, the City Council of the City of Frisco, Texas (the "City Council") has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Frisco, Texas (the "City") to amend Chapter 34 (Environment), Article IV (Junked and Abandoned Motor Vehicles) of the City's Code of Ordinances as provided herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS:**

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendment to Chapter 34 (Environment), Article IV (Junked and Abandoned Motor Vehicles) of the City's Code of Ordinances. Chapter 34 (Environment), Article IV (Junked and Abandoned Motor Vehicles), is hereby amended to read as follows:

**"ARTICLE IV. JUNKED AND ABANDONED MOTOR VEHICLES**

Sec. 34-79. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandoned motor vehicle* means a motor vehicle that is inoperable and more than five years old and left unattended on public property for more than 48 hours, or a motor vehicle that has remained illegally on public property for a period of more than 48 hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than 48 hours, or a motor vehicle left unattended on the right-of-way of a designated county, state, or federal highway within this state for more than 48 hours or for more than 24 hours on a turnpike project constructed and maintained by the Texas Turnpike Authority.

*Antique vehicle* means a passenger car or truck that is at least 25 years old.

*Collector* means the owner of one or more antique or special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest or antique

vehicles or parts of them for personal use in order to restore, preserve, and maintain an antique or special interest vehicle for historic interest.

*Demolisher* means a person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

*Garagekeeper* means an owner or operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of a motor vehicle.

*Junked vehicle* means a motor vehicle that is self-propelled and:

- (1) Does not have lawfully attached to it an unexpired license plate or a valid motor vehicle inspection plate; and
- (2) Is wrecked, dismantled, partially dismantled, or discarded, or that remains inoperable for more than 72 hours on public property or thirty (30) consecutive days if on private property.

*Motor vehicle* means a motor vehicle subject to registration under the Certificate of Title Act.

*Special interest vehicle* means a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.

*Storage facility* means a garage, parking lot, or any type of facility or establishment for the servicing, repairing, storing, or parking of motor vehicles.

*Vehicle storage facility* means a vehicle storage facility, as defined by V.T.C.A., Occupations Code § 2303.002, that is operated by a person who holds a license under state law to operate said facility.

Sec. 34-80. Findings.

(a) The city council hereby finds and determines that abandoned or junked motor vehicles, as those words and terms are defined in this article, which are located in any place where they are visible from a public place or public right-of-way, are detrimental to the safety and welfare of the general public, tending to reduce the value of property, to invite vandalism, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of and are detrimental to the economic welfare of the city, by producing urban blight, which is adverse to the maintenance and continuing development of the city, and such vehicles are, therefore, declared to be a public nuisance.

(b) This article is adopted as an exercise of the police power of the city in order to further the health safety, and general welfare of the citizens of the city, all of which the city council finds and determines will be furthered by enactment hereof.

Sec. 34-81. Authority to enforce.

The administration of the provisions of this article shall be the responsibility of the mayor or such person as he may designate. Whoever is so authorized may enter upon private property for the purposes specified in the procedures adopted in this article to examine the vehicles or parts thereof, to obtain information as to the identity of vehicles and to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to the procedures. The municipal court shall have authority to issue any order

Sec. 34-82. Authority to take possession of abandoned motor vehicles.

The police department is authorized to take into custody any abandoned motor vehicle found on public or private property. Transportation Code 683.011

Sec. 34-83. Notification of owner and lienholders regarding abandoned vehicle.

Notification of abandonment of a motor vehicle shall be provided to owners and lienholders in accordance with V.T.C.A., Transportation Code § 683.012.

Sec. 34-84. Auction of abandoned vehicles.

(a) If an abandoned motor vehicle has not been reclaimed within twenty (20) days after the date of notice and payment of all towing, preservation, and storage charges resulting from its impoundment, the police department shall sell the abandoned motor vehicle at public auction. Proper notice of the public auction shall be given and, in the event a vehicle is to be sold in satisfaction of a garagekeeper's lien, the garagekeeper shall be notified of the time and place of such auction. Notice given in accordance with the requirements of this Article or the giving of notice of the sale of other types of abandoned property, shall be sufficient to comply with the requirements of this section.

(b) The police department shall furnish a sales receipt for each vehicle to the purchaser thereof at the public auction. The proceeds shall be applied first to reimburse the police department for the expenses of the auction, costs of towing, preserving, and storing the vehicle, and all notice and publication costs, and any remainder from the proceeds of the sale shall be held for the owner of the vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the special fund which shall remain available for the payment of auction, towing, preserving, storage, and all notice and publication costs which result from placing other abandoned vehicles in custody, whenever the proceeds from a sale of such other abandoned motor vehicles are insufficient to meet these expenses and costs.

Sec. 34-85. Garagekeepers and abandoned motor vehicles.

(a) The police department, upon receipt of a report from a garagekeeper of the possession of a vehicle deemed abandoned under the provisions of this article, shall follow notification procedures set forth herein for the giving notice to owners and lienholders of abandoned vehicles, except that custody of the vehicle shall remain with the garagekeeper until after the notification requirements have been complied with. A motor vehicle left with a garagekeeper in a storage facility shall be deemed abandoned under the conditions of V.T.C.A., Transportation Code § 683.031(a).

(b) A fee of ten dollars (\$10.00) which shall be deposited in the general funds of the city shall accompany the report of the garagekeeper, and such fee shall be retained by the police department and used to defray the cost of notification or other costs incurred in the deposition of such vehicle. Abandoned vehicles left in storage facilities, which are not reclaimed after notice given in accordance with this article, shall be taken into custody by the police department and sold at auction, as in the cases of other abandoned motor vehicles. The proceeds of the sale shall first be applied to the garagekeeper's charges for servicing, storage and repair; provided, however, that the police department shall retain an amount of two percent of the gross proceeds of the sale for each vehicle auctioned, but in no event shall it retain less than ten dollars (\$10.00), to be used to defray expenses of the custody and auction.

Sec. 34-86. Disposal to demolishers.

The police department is authorized to apply to the state department of highways and public transportation for authority to sell, give away or dispose of any abandoned vehicle in its possession to a demolisher in accordance with the provisions of state law.

Sec. 34-87. Junked vehicles; procedures for abating nuisances.

The police department, when desiring to remove and dispose of junked vehicles as public nuisances from private property, public property or public rights-of-way, shall comply with the following procedures:

- (1) A notice of not less than ten days, stating the nature of the public nuisance on private property and that it must be removed and abated within ten days, and further that a request for a hearing must be made before the expiration of said ten-day period shall be mailed by certified mail with a five-day return requested to the owner or the occupant of the private premises whereupon such public nuisance exists. If the notice is returned undelivered by the United States Post Office, official action to abate said nuisance shall be continued to a date not less than eleven days from the date of such return.
- (2) The requirements of subsection (1) above shall also apply to the case of a public nuisance on public property or on a public right-of-way, and such

notice shall be sent to the owner or the occupant of the public premises, or to the owner or the occupant of the premises adjacent to the public right-of-way whereupon such public nuisance exists.

- (3) Once a vehicle has been removed under the provisions of this section, it shall not be reconstructed or made operable.
- (4) Where a hearing is requested by the owner or occupant of the public or private premises, or by the owner or occupant of the premises adjacent to the public right-of-way on which such a vehicle is located, within eleven days after service of notice to abate the nuisance, a hearing, prior to the removal of the vehicle or part thereof as a public nuisance, must be held before the municipal judge of the city. It shall be the responsibility of the city prosecuting attorney to prosecute the case on behalf of the police department, and should the municipal judge find that such vehicle is a public nuisance as defined herein, he shall enter an order requiring the removal of the vehicle or part thereof from the public or private property or public right-of-way where it is situated; such order shall include a description of the vehicle and the correct identification number, and license number of the vehicle, if available at the site.
- (5) The police department shall give notice to the state department of highways and public transportation within five days after the date of removal of the vehicle, identifying the vehicle or part thereof.
- (6) The procedure set out in this section shall not apply to a vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property, a vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard or to unlicensed, operable or inoperable antique and special interest vehicles stored by a collector on his property, provided that the vehicles and outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery or other appropriate means.
- (7) The administration of the procedures of this section shall be carried out by regularly salaried, full-time employees of the city, except that the removal of vehicles or parts thereof from property may be accomplished by any other duly authorized person, including wrecker service operators approved by the city.

Sec. 34-88. Disposal of junked vehicles.

Junked vehicles or parts thereof may be disposed of by removal to a scrapyard, demolisher or any suitable site operated by or for the city for processing as scrap or salvage. The process of disposal must comply with V.T.C.A., Transportation Code §683.078.

Sec. 34-89. Penalty.

(a) A person, firm, or corporation commits an offense if that person, firm, or corporation maintains a public nuisance as determined under this section.

(b) For purposes of this section only, a junk vehicle that is located in a place where it is visible from a public place or public right of way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazards, constitutes an attractive nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the state by producing urban blight adverse to the maintenance and continuing development of the city and is a public nuisance.

(c) A person, firm, or corporation commits an offense if that person, firm, or corporation maintains a public nuisance as defined in this section.

(d) Any person, firm, or corporation who violates this section commits an offense and, on conviction therefore, shall be fined any sum not exceeding two hundred dollars (\$200.00) and each and every day that such violation continues shall be considered a separate offense; provided, however, that such penal provision shall not preclude a suit to enjoin such violation.

(e) Upon conviction, the court shall order removal and abatement of the nuisance.”

**SECTION 3: Penalty Provision.** Any person, firm, corporation or entity violating this Ordinance, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day’s violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state and federal law.

**SECTION 4: Savings/Repealing Clause.** The City’s Code of Ordinances, as it exists or may be amended, shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution

from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 5: Severability.** Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

**SECTION 6: Effective Date.** This Ordinance shall become effective from and after its adoption and publication as required by law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS** on this \_\_\_\_\_ day of \_\_\_\_\_ 2008.

\_\_\_\_\_  
MAHER MASO, Mayor

**ATTESTED AND CORRECTLY  
RECORDED:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
RON PATTERSIN  
Interim City Secretary

\_\_\_\_\_  
Abernathy, Roeder, Boyd & Joplin P.C.  
CLAIRE E. SWANN  
City Attorneys

Date(s) of Publication: \_\_\_\_\_, *Frisco Enterprise*